

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201028006**

Release Date: 7/16/2010

Third Party Communication: None
Date of Communication: Not Applicable
Person To Contact:

Index Number: 56.00-00, 382.00-00, 383.00-00

, ID No.

Telephone Number:

Refer Reply To:

CC:CORP:B03

PLR-129530-09

Date:

April 14, 2010

TY:

Legend

Parent =

Business A =

Guidance A =

Guidance B =

Series 1 shares =

Series 2 shares =

Series 3 shares =

Series 4 shares =

Program =

Entity A =

Entity B =

Person A =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

a =

b =

c =

d =

e =

f =

g =

Dear :

This letter responds to a request for rulings submitted on behalf of Parent on June 16, 2009, regarding certain federal income tax consequences of certain stock issuances by Parent. Additional information was submitted on July 7, August 4, August 13, August 17, August 26, August 27, December 18, 2009, March 5, March 8, and April 7, 2010. The material information submitted for consideration is summarized below.

Parent is the common parent of an affiliated group of corporations that has elected to file a consolidated federal income tax return (the Parent Group). The Parent Group is engaged in Business A. The Parent Group is a loss group within the meaning of §1.1502-91(c).

Within the five year period ending on Date 1, Parent acquired at least two subsidiaries ("Separately Tracked Affiliates") that are not included in the Parent Group for purposes of tracking their tax attributes or ownership change status under section 382. The Separately Tracked Affiliates are loss members within the meaning of §1.1502-94(a)(1)(i) or members of a loss subgroup within the meaning of §1.1502-91(d).

On Date 1, Parent and Entity A entered into an agreement pursuant to which Parent would issue a Series 1 shares to Entity B (to be set up by Entity A) and, in exchange, Entity A would pay \$b and arrange financing for Parent in an amount that would not exceed \$c. The Series 1 shares to be issued to Entity B represented d% of the outstanding shares of Parent stock. The terms of the exchange were bargained for at arm's length. On Date 1, Entity A paid \$b and arranged the specified financing for Parent; also on Date 1, Parent borrowed \$e under that financing arrangement. Although the agreement originally provided that Parent was to issue the Series 1 shares to Entity B no later than Date 2, the parties extended the issuance date because there were delays in Entity A's establishment of Entity B and in obtaining certain administrative and regulatory approvals. However, at no time was it expected that such shares would not be issued. Finally, sufficient approvals in place, the Series 1 shares were issued to Entity B on Date 3. The Series 1 shares are described in Guidance A.

Subsequently, in independent transactions, Parent issued the Series 2, Series 3, and Series 4 shares to Person A. The Series 2, Series 3, and Series 4 shares were all designated preferred shares and were all issued pursuant to Program. Parent issued the Series 2 shares to Person A in the month of Date 4, in exchange for \$f. Parent later exchanged the Series 2 shares for the Series 3 shares. On Date 5, the same date that Parent exchanged the Series 2 shares for the Series 3 shares, Parent issued the Series 4 shares to Person A and Person A agreed to a commitment to fund Parent up to \$g. Because the Series 2, Series 3, and Series 4 shares were all designated preferred shares and were all issued pursuant to Program, they are all described in Guidance B.

Rulings

Based solely on the information submitted and described above, we hold as follows:

1. For purposes of applying Guidance A and its application to sections 56, 382, and 383 and the regulations thereunder, (i) the Series 1 shares shall be treated as outstanding and issued to Entity B no later than Date 1 and (ii) the determination of the direct and indirect owners (and the percentage of such ownership) of Parent and any Separately Tracked Affiliate is made by reference to §§1.382-2T(f)(8) and (15).
2. The Series 2, 3, and 4 shares constitute section 1504(a)(4) stock.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer on whose behalf it was requested. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the information, representations, or material submitted in support of the request for rulings; therefore, such items are subject to verification on examination.

Sincerely,

Theresa A. Abell
Special Counsel to the Associate Chief Counsel
(Corporate)
Office of Associate Chief Counsel (Corporate)

cc: